

REMARKS/ARGUMENTS

The examiner rejected claims 1-21 under 35 U.S.C. §102(e) as anticipated by U.S. 6,067,466 to Selker et al. (referred to hereinafter as the Selker reference). However, there are at least two features recited in claim 1 that are neither taught nor suggested by the Selker reference. Claim 1 recites that “said predictive instrument is further programmed to request said algorithm from a remote location.” Contrary to what the examiner argues, none of the devices in the Selker system from which data or programs are read into main memory is at a “remote location” with respect to the predictive instrument found in the Selker system. In addition, contrary to what the examiner appears to believe there is nothing in the Selker system that “requests” an algorithm from anywhere.

The examiner argues that processor module (14) retrieves the programs from the CD-ROM or floppy disk (36) and he asserts that the floppy disk that is depicted in Fig. 1 of the Selker reference is at a remote location. In support of his position, the examiner argues that the use of “remote” to describe external or readable storage devices is not new to the computer arts. But we disagree. First of all, Fig. 1 shows inserting the disk carrying data into the computer which houses predictive instrument. If the disk is inserted into the box which houses the predictive instrument which Fig. 1 indicates, then the disk drive for that floppy disk is an internal disk drive. The Selker reference does not even disclose an externally connected disk drive, as the examiner seems to argue. But more importantly, the word “remote” is not used in the computer arts to simply mean an externally connected device. On the contrary, it is used to mean a device that is not directly connected, either internally or externally, to the computer but rather is situated at a distant location from the computer where it is reachable over a wired or wireless network.

The embodiments disclosed in the specification clearly illustrate what is meant by remote. There are two repositories from which an algorithm is requested, one is local (in Fig. 2 see local algorithm repository 25) and the other is located on the other side of a network connection (in Fig. 3 see algorithm repository 35 located at Analytic Service Provider 12). The one on the other side of the network connection is referred to in the specification as a remote algorithm repository (e.g. see page 6, line 30).

The conventional dictionary meaning of remote also does not support the examiner's interpretation of that word. According to Webster's Ninth New Collegiate Dictionary, remote is defined as follows:

1 : separated by an interval or space greater than usual <an involucre ~ from the flower>
2 : far removed in space, time, or relation : DIVERGENT 3 : OUT-OF-THE-WAY, SECLUDED 4 : acting, acted on, or controlled indirectly or from a distance <~ computer operation> *also* : relating to acquisition of information about a distant object (as by radar or photography) without coming into physical contact with it <~ sensing instruments>

An external floppy drive that is external to but directly connected to the computer does not fall within the meaning of remote.

The technical dictionaries support a similar conclusion. For example, the "Webopaedia" web site which provides an online dictionary and search engine for computer and Internet technology definitions yields the following meaning for "remote":

Remote: In networks, remote refers to files, devices, and other resources that are not connected directly to your workstation. Resources at your workstation are considered local. (see <http://www.pcwebopaedia.com/TERM/r/remote.html>).

We also invite the examiner to look at the relevant pages of the McGraw-Hill Dictionary of Scientific and Technical Terms Sixth Edition for the definitions of remote. We have enclosed copies of pages 1785 and 1786 which define various phrases in which the word remote is found. All of them make quite clear that the word "remote" is not meant to cover anything that is merely externally connected to another device. Rather it is meant to also imply an appreciable separation in distance. For example, according to this technical dictionary "remote inquiry" means "interrogation of the content of an automatic data-processing equipment storage unit from a device remotely displaced from the storage site."

Interestingly, the word "remote" is not ever used in the Selker reference to refer to any of the components that are depicted in Fig. 1 (e.g. memory 24 or floppy disk 36). That is not surprising since none of those components are remote from the processor module 14 and waveform analyzer 12.

There is no support in the specification, in the Selker reference, or among these various dictionaries for the examiner's assertion that remote is used to describe external or readable storage devices. A person of ordinary skill in the art would not view either the CD-ROM or the floppy disk that is externally connected to a computer as being a remote device or at a remote

location, as argued by the examiner. The examiner has provided no documentary support for a contrary conclusion. Without such support, the examiner's rejection of the claims must fail.

The examiner also appears to believe that reading a program or data from a CD-ROM or a floppy disk is the same as "requesting" a program or data from a device. But a read operation such as would be performed to retrieve data from a CD-ROM or floppy disk is not performed by making a "request" to the disk or ROM drive for the data or program. A request implies that the device to which the request is made responds by sending back information that is responsive to the request. When a computer reads medium within a disk drive, the disk device does not retrieve data from the storage medium and then send that data back to the entity performing the read operation; it simply allows the computer to read the appropriate portions of the storage medium (i.e., it simply allows the computer to access the medium). In a read operation, the device that is doing the reading simply retrieves data that is stored in memory or storage locations by reading the contents of those locations.

If the claim had recited "said predictive instrument is further programmed to read said algorithm from a remote location" or if it had recited "said predictive instrument is further programmed to retrieve said algorithm from a remote location," then the examiner's argument might be a valid one. But the claim does not use those words to describe the operation that is performed, but instead it refers to the device being programmed to "request" said algorithm.

With regard to claim 6, we note that it too refers to "a request from a remote device," which as we pointed out above is neither taught nor suggested by the Selker reference.

Claim 6, however, recites additional features that are also not taught by the Selker reference. For example, it recites "storing a plurality of different algorithms, each of which models a corresponding medical outcome or diagnosis" and "retrieving a selected one of said plurality of different algorithms." In the Selker reference, there is absolutely no teaching whatsoever of those features. In fact, there is no hint whatsoever by Selker of configuring a device for a particular medical application by downloading or installing or requesting a selected one of a plurality of different algorithms. And indeed, the examiner has pointed to no disclosure within the Selker reference of those features.

In addition, claim 6 also recites "a server which is programmed to respond to a request from a remote device by retrieving...and forwarding the selected algorithm to the remote

device.” Again, in spite of what the examiner argues, there is nothing in the Selker system that can be fairly characterized as such a server, not even processor 14 to which the examiner directs our attention. Processor 14 in the Selker system is the component that executes an algorithm, it does not forward any algorithm to another entity as required by the claim.

With regard to claim 8, similar arguments apply. It recites “electronically requesting from a server at a remote location an algorithm for computing a probability of a medical outcome or diagnosis.”

For the reasons stated above, we believe that the claims are allowable and therefore ask the Examiner to allow them to issue.

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Respectfully submitted,

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